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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/318,438 05/25/99 FITZEL

B REALNT-034A

TM02/1019  
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EXAMINER
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DAS, C

ART UNIT	PAPER NUMBER
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2122

DATE MAILED:

10/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/318,438

Applicant(s)

Pitzel et al

Examiner

Chameli Das

Art Unit

2122



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on May 25, 1999

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-40 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-40 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4-5

20) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(C) of this title before the invention thereof by the applicant for patent.

2. Claims 1-2, 5-14, 16-21, 24-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Donohue, US patent No. 6,199,204.

As per claim 1, 20, Donohue teaches receiving a request for the upgrade of one or more components is shown in ABSTRACT, determining one or more system conditions is shown in column 12 line 39-44, "the configuration of the existing system to accommodate the software" inherently including system conditions regarding the computer as claimed, identifying one or more components for installation is shown in column 4 line 14-22.

As per claim 2, 21, 33, Donohue teaches receiving a configuration file that is associated with the request as claimed is shown in ABSTRACT, here the updater agent acts as configuration file as claimed.

As per claim 5, 6, 24, 25, 36, 37, Donohue teaches component server performing identifying step is shown in column 4 line 37-54.

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As per claim 7, receiving a second configuration file have in a different format is shown in column 1 line 5-11, sending file to a component server is shown in column 7 line 12-20.

As per claim 8, 26, Donohue teaches storing the file is shown in column 4 line 41-45.

As per claim 9, 27, Donohue teaches computer readable module is shown in column 18 line 62-64.

As per claim 10, 28, Donohue teaches language as claimed is shown in column 10 line 51-55.

As per claim 11, 29, Donohue teaches operating system that is executing is shown in column 10 line 51-55.

As per claim 12, 30, Donohue teaches identifying one or more programs upon receiving the request as claimed is shown in ABSTRACT.

As per claim 13, Donohue teaches computer having one or more system resources is shown in column 6 line 1-15 and Fig 1, second computer operably connected to the first computer as claimed is shown in column 1 line 5-10 and column 3 line 50-60, second computer associated with one or more installable components is shown in column 5 line 54-58, configuration file is readable by the first computer is shown in column 1 line 10-11, computers may be arranged in any configuration and using any manner of connection so that they can exchange information inherently including configuration file is readable by the computer as claimed, configuration file identifying requested component is shown in ABSTRACT, upgrade manger executes is shown in column 8 line 25-27, transmit information as claimed is shown in

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column 7 line 12-18, upgrade handler execution on the second computer is shown in column 11 line 14-19, column 11 line 64-65, and column 12 line 54-55, upgrade handler configured to transmit the location as claimed is shown in column 13 line 67 and column 14 line 1-6.

As per claim 14, Donohue teaches configuration file is formatted as claimed is shown in column 1 line 10-11.

As per claim 16, 17, Donohue teaches upgrade managers retrieves the configuration file as claimed is shown in column 8 line 64-67, upgrade manager transmits the file as claimed is shown in column 11 line 21-25,.

As per claim 18, Donohue teaches network is shown in column 1 line 5-10.

As per claim 19, Donohue teaches network is shown in column 1 line 5-10, client computer operably connected to the network is shown in column 3 line 1-7, configuration file identifying the location and components as claimed is shown in ABSTRACT line 11-16.

For claim 31 and 32, see the rejection of claim 1 and 4 above.

As per claim 38, Donohue teaches client computer is shown in column 3 line 1-3, processor is shown in column 8 line 27, updater component executes inherently including system includes a processor, computer readable storage medium is shown in column 18 line 36-37, data communication system is shown in column 13 line 62-64, for the rest of the limitations, see the rejection of claim 13 and 19 above.

As per claim 39, a server computer has the same feature as the client computer is shown in column 3 line 1-7.

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For claim 40, see the ABSTRACT, column 3 line 1-7 and the rejection of claim 4 above.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 4, 15, 22, 23, 34, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donohue, US Patent No. 6,199,204.

As per claim 3, 4, 15, 22, 23, 34, 35, Donohue teaches new version is shown in column 15 line 16-17, column 18 line 1-2, and expiry of a predetermined update cycle is shown in column 11 line 16-18. Donohue does not specifically teach determining the expiration time and stopping the identification step. Official notice is taken in determining expiration time is well known and expected in the art. It would have been obvious to one of the ordinary skill in the art at the time of invention was made to determine expiration date because one of the ordinary skill in the art would be motivated to install the current version of the software and avoid the old version.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 7 is rejected under 35 U.S.C 112 first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art which it pertains, or with which it is most nearly connected, to make and/or use the invention. Because the specification fails to disclose sending the second configuration file to a component server without reading with the client computer any part of the second configuration file differing in format from the received configuration file.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Method and a mechanism for synchronized updating of interoperating software, US 6202207 B1

TITLE: Distribution of software updates via a computer network, US 6199204 B1

TITLE: Method and system for identifying and obtaining computer software from a remote computer, US 6073214 A

TITLE: Method and system for providing user control of device driver, US 5339432 A

TITLE: Method for identifying and obtaining computer software from a network computer using a tag, US 6256668 B1

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TITLE: Method for producing a coherent view of storage network by a storage network manager using data storage device configuration obtained from data storage devices, US 6253240

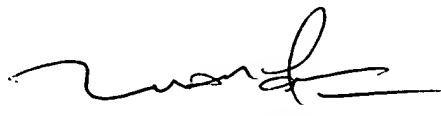
TITLE: Method and a mechanism for synchronized updating of interoperating software, US 6202207

TITLE: Method and apparatus for loading components in a component system, US 5970252

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 703-306-3014. The examiner can normally be reached on Monday-Friday from 8:00 A.M to 4:30 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Mark Powell can be reached at 703-305-9703. The fax number for this group is 703-746-7239. An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-9600.

CDAS

10/12/01



**TUAN Q. DAM**  
**PRIMARY EXAMINER**